IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No.: 1706 of 2002.

Decided on: 17.4.2007.

The Jogindera Central Coop. Bank.
… … … Petitioner.

Versus

Secretary Cooperation and another .
… … … Respondents.

Coram:

The Hon'ble Mr. Justice Rajiv Sharma, J.

Whether approved for reporting? Yes.

For the petitioner:	**Mr. Ramakant Sharma, Advocate.**
For Respondent No.1:	**Mr. M.S. Chandel, Advocate General with Mr. Ashutosh Burathoki, Addl. Advocate General.**
For Respondent No.2	**Mr. M.C. Verma, Advocate.**

Rajiv Sharma, Judge (Oral):

This petition is directed against the order dated 26.10.2002 passed by the Secretary (Cooperation) to the Government of Himachal Pradesh.

The brief facts necessary for adjudication of this petition are that respondent No.2's plea for fixation of pay at par with H.P. State Cooperative Bank Limited was rejected by the Additional Registrar on 3rd October, 1983. He preferred an appeal before the Deputy Secretary Cooperation) to the Government of Himachal Pradesh, who remanded the

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Whether reporters of local papers may be allowed to see the judgment? Yes.

matter to the Registrar (Cooperative) on 27.12.1984. The Registrar (Coop.) vide order dated 6.2.1996 came to the conclusion that he was not entitled for any relief. The respondent No.2 feeling aggrieved by the order dated 6.12.1996 preferred appeal under Section 93(1) (h) before the Secretary (Coop. Societies). The appeal was filed on 4.6.2002. The period prescribed for filing appeal under Section 93(2) of the H.P. Coop. Societies Act is 60 days. The respondent No.2 has not filed any application seeking condonation of delay nor any averment with regard to condonation of delay was made in the memo of appeal as placed on record vide Annexure P-2. The Secretary (Coop.) without taking into consideration whether the appeal was filed within period of limitation as prescribed has condoned the delay only on the premise that there was no question of limitation in the matter of pay fixation as it is a continuous wrong.

I have perused the record and heard the parties. Admittedly, neither any separate application was filed seeking condonation of delay nor there was any averment contained in the memo of appeal explaining the delay. The Secretary (Coop.) in absence of application filed under the relevant provisions of law seeking condonation of delay has wrongly condoned the delay on the basis of faulty reasoning. The reasons assigned by the Secretary (Coop.) are wholly erroneous. The Secretary (Coop.) has failed to exercise the jurisdiction vested in him in accordance with law.

Accordingly, I hold that the decision dated 26.10.2002 suffers from procedural illegality. As a result, the writ petition is allowed. The Annexure P-3 dated 26.10.2002 is quashed and set aside. The respondent No.2 is permitted to make a fresh representation to the

petitioner-Bank for the redressal of his grievances within a period of one month. The representation made by the petitioner will be decided by a speaking order by the Bank within a period of two months. There shall be no order as to costs.

(Rajiv Sharma)
Judge

April 17, 2007.
(sck)